IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LOD) NO. 1958 OF 2007

Maruti Bhimrao Bugade & Others ..Petitioners
V/s
State of Maharashtra and others ..Respondents.

Mr. M.V. Holamagi for the Petitioners.

Mr. A.A. Kumbhkoni AAG with Mr. P.M. Jadhav, AGP for the Respondent-State.

CORAM : J.N. PATEL AND
A.A. SAYED, JJ.
DATE : 14TH SEPTEMBER, 2007

P.C.

1. Heard.

2. Mr. Holamagi, the learned Counsel has presented before us historical background of the Bombay City Civil and Sessions Court Mumbai and pross and cons of creating sub-division of the Court from the location where the Bombay City Civil and Sessions Court is situated. It is in this backdrop that he has filed this petition impugning the Notification dated 20th February, 2007 issued by the respondent-State and strongly objects to any subdivision of the Bombay City Civil and Sessions

Court at Mumbai. The substantive prayer in the petition are prayer clause (a) and (b) which reads as under:-

> "(a) That this Hon'ble Court be pleased to issue Writ of Mandamus or Writ of such nature direct the Respondents No. 1 and 4 to hand over both the Buildings lying and adjacent to the present Old Secretariate building, and after taking over the same, the Respondent No.1 to make available the necessary infrastructure to establish additional Courts if necessary to enable to implement the Notification of Respondent No. 1 and to approach the Hon'ble Supreme Court if the report of the Respondent No.2 and get the stay vacated from the Honourable Supreme Court with regard to issue of Notification and enhancement of pecuniary jurisdiction of City Civil and Sessions Court, Bombay.
>
> (b) That this Hon'ble Court be pleased to issue Writ of Ceritorari or Writ of such nature by calling for records and proceedings of the Respondent Nos. 1 and 2 and quash and set aside the Impugned Notification dated 20th February, 2007, and also the decision to create City Civil and Sessions Court at Dindoshi, Goregaon and any decision taken to establish the City Civil and Sessions Court at Dindoshi, Goregaon and pass such order directions as deem fit and proper;"

3. After hearing Mr. Holamagi, at length for one and a half hour this Court made repeated queries to the learned Counsel to show us any illegality or irregularity which will vitiate the impugned

Notification, that would enable the petitioners to get the relief, sought for in the petition.

4. Mr. Holamagi has addressed on the impugned Notification with reference to Sections 7 and 9 of the Code of Criminal Procedure, 1973. It is his contention that a subdivision cannot be constituted in terms of Notification dated 20th February, 2007 as it does not in any manner refer to creation of the subdivision but it establishes a Court of Sessions Division at Dindoshi (Goregaon) which is to be presided over by the Additional Sessions Judge at Dindoshi, which will have jurisdiction co-extensive of Court of Chief Metropolitan and Metropolitan Magistrate which may try the cases therein between the said area.

5. Mr. Holamagi submits that the issues raised in this petition are much larger, than merely rather challenging the Notification dated 20th February, 2007 and the prayer clause (a) in the petition rather stress the requirement of creating more Courts by acquiring the adjoining building in the precincts of

Bombay City Civil and Sessions Court at Mumbai.

6. He has further contended that there is a move on the part of the Bombay City Civil and Sessions Court even to transfer the civil cases to the Court at Dindoshi, which is to be inaugurated on 18th September, 2007 for which there is no Notification.

7. In our view, Mr. Holamagi has not been able to point out how the impugned Notification stands vitiated for non compliance of any legal provision so that this Court can quash and set aside the same. We do not find any merit in the petition and therefore, we need not call upon the respondents to file any reply . The petition is dismissed in limine.

8. After we pass this order, Mr. Holamagi has requested this Court that under the guise of this Notification whether the civil matters can be transferred to Dindoshi Court and further whether that Court will have jurisdiction from Bandra to Dindoshi.

9. We have recorded this at the insistence of Mr. Holamagi and we make it clear that this is not the subject matter of the petition, nor there is any legal impediment in the way of Principal Judge of the City Civil Court to assign civil matters to any of the Judges working under him under his administrative control and therefore, this submission of Mr. Holamagi has no substance.

10. Mr. Holamagi submits that he seeks leave of this Court to prefer an SLP before the Supreme Court in the matter and till then the effect and operation of the order should be stayed. It is further stated that this Court may also pass an interim order deferring the inauguration of the Sessions Division at Dindoshi under the impugned Notification.

11. In our view , there is no question involving any substantial question of law or constitutional issue, so as to grant leave to the petitioner in the matter to approach the Supreme Court of India and as we have dismissed this petition, no interim relief can be granted so far as inauguration of the Sessions

Division at Dindoshi, which is scheduled on 18th September, 2007 is concerned.

12. Mr. Holamagi requests that an authenticated copy of the order passed by this Court should be made available to him by today evening. We direct that authenticated copy of the order be furnished to Mr. Holamagi today itself, during the course of the day before Court closes.

(J.N.PATEL, J.)

(A.A. SAYED, J.)

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. Mr. Holamagi the learned Counsel appearing for the petitioners strongly objects to Mr. M.P Vashi, Advocate addressing this Court in the matter without making appropriate application for intervention.

2. Mr. Vashi, learned Advocate submits that as this is the Public Interest Litigation, he has got a right to address this Court, which is refuted by Mr. Holamagi by stating that in Mr. Vashi’s petition when he sought to intervene, it was insisted upon

that he should file an application for intervention and he should be treated only as intervenor.

3. Without going into the controversy, it will be proper that Mr.Vashi files an application to intervene in the matter, if he so desire in which he can bring all facts on record, which he wants to place before the Court. Mr. Holamagi submits that he will give a copy of the petition to Mr. Vashi today itself.

(J.N.PATEL, J.)

(A.A. SAYED, J.)